

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
TEXARKANA DIVISION**

**KENNETH KENNER**

**PLAINTIFF**

**VS.**

**Case No. 04-CV-4021**

**DOMTAR INDUSTRIES, INC.**

**DEFENDANT**

**ORDER**

Before the Court is Plaintiff's Motion to List Expert Witnesses. (Doc. 21). Defendant has responded in opposition. (Doc. 22). Plaintiff has also filed a reply. (Doc. 23). The Court finds this motion ripe for consideration.

In Plaintiff's motion, he seeks the Court's permission to designate expert witnesses with respect to the issue of attorney's fees outside of the Court's deadlines. Plaintiff argues that this late designation will not cause Defendant any unfair prejudice or surprise. Defendant responds that the scheduling order's deadline for disclosing experts (December 27, 2005) and rebuttal experts (January 26, 2006) has passed and Plaintiff has failed to show why he should be excused from this deadlines. Further, Defendant argues that Plaintiff did not identify attorney's fees in response to an interrogatory requesting a calculation of damages, so he is barred from recovering them. Upon consideration, the Court finds the Motion to List Expert Witnesses should be and hereby is granted, to wit: Plaintiff shall have up to and including **Wednesday, March 1, 2006**, by which to designate and disclose to Defendant his expert witnesses with respect to the issue of attorney's fees. The discovery deadline is hereby lifted for the limited purpose of conducting discovery related to these attorney's fees expert witnesses. The Court will not decide, at this time, whether or not Plaintiff is barred from recovering attorney's fees because of his failure to fully respond to Defendant's interrogatory.

**IT IS SO ORDERED** this 23rd day of February, 2006.

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/s/ Harry F. Barnes  
Hon. Harry F. Barnes  
U.S. District Judge